

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**UNITED STATES OF AMERICA,**  
*Plaintiff,*

**v.**

**(1) TYLER CHRISTOPHER BENSON,**  
*Defendant.*

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**6:18-CR-00275-ADA**

**ORDER DENYING DEFENDANT’S MOTION TO SUPPRESS**

Before the Court is Defendant Tyler Benson’s Motion to Suppress. ECF No. 38. The Court has also reviewed the Government’s Response to Defendant’s Motion to Suppress and the video of the interview attached as an exhibit. ECF No. 41. After review of the Motion, the Response, and the exhibit, the Court DENIES Defendant’s Motion.

In the Motion, Defendant asserts that he made an involuntary and un-Mirandized custodial statement to law enforcement, but this account is contradicted by the video evidence. Whether a person is “in custody” is an objective inquiry determined by the totality of the circumstances. *United States v. Wright*, 777 F.3d 769, 774 (5th Cir. 2015) *cert. denied*, 135 S. Ct. 2821 (2015). Courts consider (1) the length of the questioning; (2) the location of the questioning; (3) the accusatory, or non-accusatory, nature of the questioning; (4) the amount of restraint on the individual’s physical movement; and (5) statements made by officers regarding the individual’s freedom to move or leave. *Id.*

Here, Defendant voluntarily entered the vehicle in which he was interviewed. He was not handcuffed or arrested. *See, e.g.*, ECF No. 41-1 at 32:15–32:20 (“Exh. 1 at \_”) (“You’re not in trouble now. You’re not going to jail.”). Defendant was in the car less than an hour. And the

Sergeant was clear that Defendant could leave at any time. For example, in the video of the interview, the sergeant and Defendant had the following exchange:

Sergeant: I'm sorry, I forgot to mention to you, and I told you outside but I do want to tell you again, this is a completely voluntary interview--

Defendant: Yeah, I know.

Sergeant: -- I'm not making you be here. That door is unlocked. You can get out at any time and just stop talking to me.

Defendant: No, it's cool. Like I said, I can help as much as possible I will. [Inaudible] if it helps clear me.

Exh. 1 at 16:30. The Fifth Circuit has considered similar statements and found that an interview of a defendant who is told he is “free to leave” and is interviewed for an hour or less without being handcuffed or arrested is non-custodial. *Wright*, 777 F.3d at 774–77; *see also United States v. Ortiz*, 781 F.3d 221, 231–33 (5th Cir. 2015) (comparing facts at issue to *Wright* and *United States v. Cavazos*, 668 F.3d 190 (5th Cir. 2012)). At the conclusion of the interview, Defendant was not arrested. He exited the vehicle on his own. The Court therefore finds that Defendant was not in custody during his interview and was not improperly questioned in violation of *Miranda*.

Nor can the Court conclude that Defendant's statements made during the interview were involuntary. “A confession is voluntary if, under the totality of the circumstances, the statement is the product of the accused's free and rational choice.” *United States v. Scurlock*, 52 F.3d 531, 536 (5th Cir. 1995) (internal quotations omitted). Defendant was told he could leave at any time, he answered questions thoughtfully, and he agreed to speak with the Sergeant again in the future. The Sergeant did not threaten to arrest or prosecute him, or otherwise coerce Defendant's statements. Defendant's allegation that his statement was involuntary lacks support to dispute or contradict the video evidence.

IT IS THEREFORE ORDERED that Defendant's Motion to Suppress (ECF No. 38) is  
**DENIED.**

SIGNED this 30th day of September, 2019.

A handwritten signature in black ink, appearing to read "Alan D Albright", written over a horizontal line.

ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE